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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/830,460	04/27/2001	Jonathan Andrew Clark	36-1423	8071
23117	7590	02/06/2006	EXAMINER	
NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203			SHAND, ROBERTA A	
			ART UNIT	PAPER NUMBER
			2665	

DATE MAILED: 02/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/830,460

Applicant(s)

CLARK, JONATHAN ANDREW

Examiner

Roberta A. Shand

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Voit (U.S. 6157636) in view of Elliot (U.S. 6754181 B1).

3. Regarding claim 1, Voit teaches (abstract) a method of operating a communications system, comprising: a packet switched network (fig. 12) a circuit switched network (fig. 12), a plurality of gateways (424, 426, 428, 430, 432) connecting the two networks, comprising: receiving packet traffic at one of the gateways; establishing in the circuit-switched network a circuit from the gateway to a node on the circuit-switched network; and outputting the traffic from the gateway onto the circuit.

4. Voit does not teach outputting from the gateways polling messages addressed to the destination address of the traffic; receiving at the gateways replies from the destination address; determining the respective delay for the replies at the different respective gateways; selecting one of the gateways; and establishing the virtual circuit to the gateway selected.

5. Elliot teaches (col. 101) outputting from the gateways polling messages addressed to the destination address of the traffic (col. 101, lines 25-26); receiving at the gateways replies from the destination address (col. 101, lines 27-29); determining the respective delay for the replies at

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the different respective gateways (Elliot teaches measuring latency of round trip ping results) ; selecting one of the gateways (col. 101, lines 30-36); and establishing the virtual circuit to the gateway selected (Elliot teaches selecting the best Gateway based on the ping results and the client using the gateway which implies establishing a circuit to the selected gateway). It would have been obvious to one of ordinary skill in the art to adapt this to Voit's system to obtain the best gateway based on latency and number of router hops.

6. Regarding claim 2, Voit teaches (col. 23, lines 8-12) the circuit switched network includes a plurality of independently controlled networks connected to different gateways.

7. Regarding claim 3, Elliot teaches (col. 101)) the gateways communicate delay times to a control node, which selects one of the gateways.

8. Regarding claim 4, Elliot teaches (col. 101) each gateway having a delay less than a threshold value communicates the delay to the control node.

9. Regarding claim 5, Voit teaches (col. 2, lines 26-40) IP packets.

10. Regarding claim 6, Elliot teaches (col. 17, lines 55-65) the circuit-switched network is an ATM network.

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11. Regarding claim 7, Elliot teaches (col. 101) a control node including a control processor and a signaling interface communicates signals with a plurality of gateways in the circuit-switched network, being arranged to: communicate instructions to the gateways to transmit polling messages to a destination address in a circuit-switched network connected to the gateways; receiving from the gateways delays; selecting a gateway depending on the delays.

12. Regarding claim 8, Voit teaches (abstract) the gateway including a first interface for connection to a packet-switched network (fig. 12), a second interface for connection to a circuit-switched network (fig. 12), and a control processor including a control interface to communicate signals with a control node, comprising.

13. Voit does not teach transmitting a polling message to a destination address in the circuit-switched network; receiving a reply and determining the delay; communicating the reply to the control node.

14. Elliot teaches (col. 101) outputting from the gateways polling messages addressed to the destination address of the traffic (col. 101, lines 25-26); receiving at the gateways replies from the destination address (col. 101, lines 27-29); determining the respective delay for the replies (Elliot teaches measuring latency of round trip ping results); communicating the reply to the control node (col. 101, lines 28-29). It would have been obvious to one of ordinary skill in the art to adapt this to Voit's system to obtain the best gateway based on latency and number of router hops.

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15. Regarding claim 9, Voit teaches (abstract) a communications network including a control node and a gateway comprising a first interface for connection to a packet-switched network, a second interface for connection to a circuit-switched network (fig. 12), and a control processor including a control interface to communicate signals with a control node.

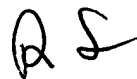
16. Voit does not teach transmitting a polling message to a destination address in the circuit-switched network; receiving a reply and determining the delay; communicating the reply to the control node.

17. Elliot teaches (col. 101) outputting from the gateways polling messages addressed to the destination address of the traffic (col. 101, lines 25-26); receiving at the gateways replies from the destination address (col. 101, lines 27-29); determining the respective delay for the replies (Elliot teaches measuring latency of round trip ping results); communicating the reply to the control node (col. 101, lines 28-29). It would have been obvious to one of ordinary skill in the art to adapt this to Voit's system to obtain the best gateway based on latency and number of router hops.

18. Regarding claim 10, as for carrying out the selection step only when traffic above a certain level is detected on that circuit, it is inherent in Elliot's system that that step is triggered when a user needs to communicate information.

Conclusion

1. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roberta A Shand whose telephone number is 571-272-3161. The examiner can normally be reached on M-F 9:00am-5:30pm.
2. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on 571-272-3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.
3. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Roberta A Shand
Examiner
Art Unit 2665



STEVEN NGUYEN
PRIMARY EXAMINER